

United States District Court
Southern District of Texas
FILED

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NOV 12 2009

Clerk of Court

IN RE:

CHRISTOPHER S. MEHAFFIE

DEBTOR

§
§
§
§
§

CASE NO. 09-31689-H4-13
ADVERSARY NO. 09-03-230
CHAPTER 13

**NON-PARTY LARRY MARSH'S
MOTION FOR EXPEDITED CONSIDERATION OF
EMERGENCY MOTION TO QUASH AND
OBJECTIONS TO APPLEWAY'S SUBPOENA, NOTICE OF 2004
EXAMINATION, AND REQUEST FOR DOCUMENTS,
AND MOTION FOR PROTECTIVE ORDER**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW Larry Marsh, a third party, and files this Motion for Expedited Consideration of Emergency Motion to Quash and Objections to Appleway's Subpoena, Notice of 2004 Examination, and Request for Documents, and Motion for Protective Order, respectfully showing the Court as follows:

1. Mr. Marsh, a non-party to this bankruptcy, has received a "Notice of Examination Under Rule 2004 and Subpoena Duces Tecum," issued on or about October 28, 2009, by Appleway Equipment Leasing, Inc. ("Appleway"), an unsecured creditor with a disputed claim against the Debtor. The subpoena commands Mr. Marsh to give an oral examination and produce voluminous documents irrelevant to this proceeding. The purpose of the discovery appears to be to obtain discovery in violation of a stay issued by a federal court in Washington, where Appleway is pursuing a lawsuit against D&L Trucking Center U.S.A., Inc., the former employer of the Debtor and of Mr. Marsh.

2. The discovery which Appleway seeks from Mr. Marsh has no relevance to this bankruptcy proceeding, and the requested discovery is intrusive and invasive with respect to Mr.

Marsh. Therefore, Mr. Marsh, has filed an Emergency Motion to Quash and Objections to Subpoena, Notice of Oral Deposition, and Request for Documents, and Motion for Protective Order ("the Motion") with this Court. All parties in interest have been served or are being served with a copy of the Motion.

3. Cause exists for the Court to consider the Motion on an expedited basis. Appleway's subpoena commands Mr. Marsh to appear for a deposition and produce documents on November 19, 2009, at 9:00 a.m. The short notice given by Appleway has made expedited relief necessary to permit the parties to obtain a ruling on the propriety of the deposition and document requests prior to the due dates.


4. Karen Emmott, counsel for Debtor, has advised that she is unavailable for a hearing on this matter on Friday, November 13, 2009, and Friday, November 20, 2009.

WHEREFORE, Larry Marsh respectfully requests the following relief:

- (1) This Motion be submitted to the Court;
- (2) The Court set an expedited hearing to consider Larry Marsh's Motion; and
- (3) Such other and further relief as is just.

Respectfully submitted,

 / WITH PERMISSION
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Certificate of Service

This is to certify that a true and correct copy of the foregoing instrument has been sent to the below listed persons via first class mail, postage prepaid, unless otherwise served by the ECF system, on November 12, 2009.

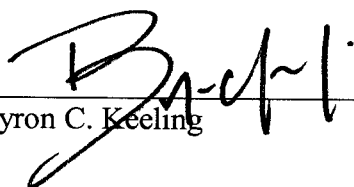
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